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***Statement from the Marion County Prosecutor's Office
regarding Indiana Secretary of State Charles White***

(Indianapolis, Ind.) Below is a statement issued by the Marion County Prosecutor's Office regarding the Indiana Secretary of State, Charles White:

We have reviewed the materials delivered to this office by Charles White. In those documents, he requested that the Marion County Prosecutor's Office seek the appointment of a special prosecutor to investigate his allegations of voter fraud by Evan and Susan Bayh. We decline to grant Mr. White's request to appoint a special prosecutor. If Mr. White disagrees with this determination, Indiana law affords him the opportunity to personally petition the court to appoint a special prosecutor. Ind. Code 33-39-1-6.

As to Mr. White's allegations of improper voter registration, Mr. White does not include allegations that would lead one to conclude that Evan and Susan Bayh intend to abandon their Marion County residency. In essence, Mr. White alleges that Mr. and Mrs. Bayh have committed voter fraud by voting in the May, 2011, Indiana primary because they maintain residences in both Washington, D.C., and Marion County, Indiana. The mere fact that a person maintains a residence in a state other than Indiana – even if the out-of-state property is more valuable than the Indiana property – is insufficient to conclude that the person has committed fraud by voting in Indiana. In fact, the documents attached to Mr. White's complaint, namely the Indiana voter registration records and property tax statements, lend support to the notion that the Bayhs do not intend to abandon Marion County as their residence.

In an abundance of caution, however, I am forwarding Mr. White's complaint to the bipartisan Marion County Election Board, given their specialized involvement with Indiana election law and unique investigatory powers. If the Election Board "determines that there is substantial reason to believe an election law violation has occurred, it shall expeditiously make an investigation." Ind. Code 3-6-5-31. If circumstances warrant after completion of the investigation, the Election Board may refer the matter back to the county prosecutor.

We would also note that, by statute, certain voter information and documents are confidential and may only be accessed by designated individuals for election purposes. While it is the assumption of this office that the materials were delivered by Mr. White as a private citizen and not in his capacity as Indiana Secretary of State, it appears that Mr. White may have used his official position to access, gather, and disseminate otherwise confidential voter information attached to his complaint. The Election Board thus also has the ability to determine the proper usage of confidential voter information contained in Mr. White's complaint.

Mr. White also alleges that Mr. and Mrs. Bayh have improperly claimed a homestead exemption for their Marion County property. As to questions about the eligibility of the Bayhs' Indiana homestead exemption, any such question is civil in nature and should be initiated with the Marion County Auditor's Office. Ind. Code 6-1.1-12-37.

Finally, Mr. White alleges that a special prosecutor should be appointed to investigate the Bayhs because Mr. and Mrs. Bayh, according to Mr. White, have engaged in the similar conduct which has resulted in pending criminal charges against Mr. White in Hamilton County. We would note that the Marion County Prosecutor's Office has no involvement whatsoever in the pending Hamilton County matter. The mere suggestion that someone else has engaged in the same conduct alleged in the Hamilton County criminal charges is again insufficient to justify appointment of a special prosecutor.